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Human rights questions: implementation of human rights instruments

Letter dated 11 May 2004 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to inform you that the Government of the Republic of Uzbekistan has adopted an action plan to comply with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see annex).

The plan, which was developed in close cooperation with the United Nations Development Programme, the Organization for Security and Cooperation in Europe, the embassies of the United States of America and European Union member States in Uzbekistan, as well as international non-governmental organizations, incorporates the recommendations of the United Nations Special Rapporteur on torture, Mr. Theo van Boven.

In this regard, I should be grateful to you if the present letter and its annex were circulated as a document of the fifty-ninth session of the General Assembly, under item 108 of the preliminary list.

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan

* A/59/50 and Corr.1.

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Annex to the letter dated 11 May 2004 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

Human Rights Developments in Uzbekistan: The Government's Action Plan to comply with the UN Convention

The Government of Uzbekistan has adopted an Action Plan to comply with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The plan, which was developed in close cooperation with UNDP, OSCE, Embassies of USA and EU member states in Uzbekistan and also international NGOs, incorporates the recommendations of the UN Special Rapporteur on Torture Theo van Boven.

The Action Plan encompasses a number of important measures to further liberalize the court-judicial system, which is considered as one of the main direction of the democratization process in society. The major actions in the plan could be underlined as following:

- According to the work plans of appropriate ministries and agencies, discussing within the framework of meetings of their collegial governing bodies and Coordination Council of law-enforcement agencies under the Office of Prosecutor General the issue of strict observance by officials of law-enforcement agencies of international commitments under the Convention against Torture.

- Preparing the comments on application of Article 235 of the Criminal Code of Uzbekistan (CC), which envisages responsibilities of officials for torture and other cruel, inhuman or degrading treatment (New Edition of Article 235 of CC was adopted by the Oliy Majlis on August 29, 2003).

- Studying practice of detention by law-enforcement agencies of suspected individuals under Article 225 of Criminal Procedural Code (CPC) and of implementation of a right to appeal suppression measures under Article 241 of CPC.

- Organizing a round-table to discuss recommendations by ODIHR international expert D. Korf who in 2002 reviewed CC of Uzbekistan

- Conducting poll on ill-cases of torture and other types of mistreatment in the process of preliminary investigation, actual investigation and serving a sentence among those set free after completion of their sentence and those serving a sentence.

- Preparing action plans on ensuring control over actions of law enforcement agencies officials aimed at eliminating practice of tortures and other types of mistreatment.

- Drafting "Law on holding suspects and defendants accused of committing crimes" that would allow to define legal status of such persons, their rights and obligations; the order and conditions of holding them in places of preliminary detention; regulations of organizing control, including public one, over observance of guarantees of rights and freedoms of those under detention.

- Developing the necessary procedures on visiting and studying the conditions of detention by representatives of diplomatic corps, international and nongovernmental organizations and mass-media.

- Developing of the agreement on the cooperation between penitentiary system bodies and NGOs.

- Improving system of professional training of lawyers with the aim of providing qualified legal assistance to detainees.

- Preparation of draft amendments and changes to legislative acts concerning lawyers' activities (CC, CPC, Civil Code. Civil Procedural Code, Commercial Procedural Code, new edition of Law on Advocatura and etc).

- Ensuring media coverage of rights of detainees for protection by lawyer.

- Elaborating curriculums with emphasis on the course of "International Standards of Human Rights in Legal Proceedings".

- Studying international experience in transfer of penitentiary system under the jurisdiction of the Ministry of Justice.

- Establishing the expert group on preparation of penitentiary system reform concept.

- Studying practice of responding by appropriate state bodies to interim measures called for by the UN Human Rights Committee, i.e. requests not to carry out death sentences towards individuals whose cases are under consideration by the Human Rights Committee and there is a communication to this effect by the Committee to the Government of Uzbekistan.

- Preparing the report on implementation by state bodies of interim measures called for by the UN Human Rights Committee.

- Adopting a new edition of "Law on Ombudsman", particularly envisaging following articles:

a) status of Ombudsman's Secretariat as a legal entities, its regional representatives, Commission on observance of constitutional rights and freedoms of individuals, on expert council under Ombudsman, separate financing and material provision of Ombudsman's activities;

b) right to visit penitentiary establishments, those arrested, convicted, places of compulsory treatment and re-education, psychiatric establishments, military establishments, conduct interviews and meetings at those sites and receive information on their detention conditions;

- Conducting poll on introduction of moratorium and repeal of capital punishment

- Considering the adoption of statement pursuant to Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, on recognizing the right of Committee against Torture to receive and consider submissions of individuals whose rights under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment have allegedly been violated.

It is also worth to note that since 2001, the Government of Uzbekistan is pursuing widespread reforms of its court-judicial system, which became the logical continuation of general process of judicial reforms and liberalization of the criminal law.

"Law on changes and amendments to the Criminal, Criminal Procedural Codes and Code on administrative liability in connection with liberalization of criminal punishment"

adopted in August 2001 made substantial changes to the system of criminal law and court practice.

Substantial changes are also observed in court practice for imposing punishments. For example, if in 2000 the share of convicted individuals in the from of imprisonment was 47,2 %, in 2003 this figure was 34,7%, and 65,3 % of convictions were in the form other than imprisonment. Arrest and detention are excluded as a punishment for many types of crimes. Annual amnesties give opportunity to tens of thousand of citizens to return to normal life. It should be underscored that since 1997 nearly 200,000 persons benefited from amnesties. At present the release of persons under the President Decree on Amnesty of 01.12.2003 is taking place. It means that the number of persons benefited from amnesties will further increase. It allowed decreasing the number of detainees in two times in comparison with 2000, also CIS and other countries. For instance, in 2003 prison population rate per 100,000 of national population was 184 in Uzbekistan.

Court-judicial reforms have also included the reform of penitentiary system of the country. International community now has unprecedented access to penitentiary system of Uzbekistan. A number of international governmental and non-governmental organizations, as well as diplomatic corps in Uzbekistan, including ICRC, Freedom House, OSCE, Embassies of USA and EU member states, as well as NGOs and representatives of foreign mass media, have undertaken numerous visits to several penitentiaries of the country. For instance, while ICRC in 2001 made 5 spot visits to penitentiaries, in 2003 this figure exceeded 50.

On September 26, 2003 the President of Uzbekistan has signed Decree "On liberalization of prison conditions of first-time convicts". According to this Decree the persons imprisoned for non-serious crimes will serve the sentence in the special settlements that provide them the possibility for normal contacts with families.

Mitigating the legislation also covered issues of the death penalty. In particular, the number of crimes punishable by death penalty has decreased in the Criminal Code. In 1991 death penalty has been envisaged in 35 articles of the Criminal Code. Currently, the death penalty is envisaged in cases of two types of crimes: premeditated murder under aggravated circumstances and terrorism.